

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL 98,

Respondent,

and

Case 04-CC-229379

POST GENERAL CONTRACTING, LLC d/b/a  
POST BROTHERS,

Charging Party.

**RESPONDENT'S EXCEPTIONS TO THE  
CHIEF ADMINISTRATIVE LAW JUDGE'S DECISION**

Pursuant to Section 102.46 of the Rules and Regulations of the National Labor Relations Board ("Board") and with its supporting brief, Respondent, the International Brotherhood of Electrical Workers, Local 98 ("Union" or "Respondent") hereby respectfully files the following Exceptions to the Decision issued by Chief Administrative Law Judge Robert A. Giannasi ("ALJ") on May 6, 2020 ("ALJD"):

1. To the ALJ's finding that: "the volume was often set well above level 4 and likely at level 7, as it was on the first day of the protest." (ALJD, 7:41-8:6; 9:18-20)
2. To the ALJ's conclusion that: "Respondent intentionally set the speakers in such a way as to interfere with or even disrupt operations at the Broad Street site." (ALJD, 8:19-21; 9:23-27)
3. To the ALJ's conclusion that: the Air Management "reports have no reliability in determining the real noise levels in this case." (ALJD, 8:41-42)

4. To the ALJ's conclusion that the volume used for the time covered by the reports differed from the remainder of the protest. (ALJD, footnote 9)
5. To the ALJ's conclusion that "the noise level here was in violation of [] Philadelphia's noise regulations" (ALJD, 11:42-44)
6. To the ALJ's finding that: "Eddis did not refute Steffa's testimony about the recent fire near Steffa's bar." (ALJD, 10:9-10)
7. To the ALJ's finding that: "Eddis [did not] deny telling Steffa that, if Major Electric left, so would the recording of the crying baby." (ALJD, 10:10-11)
8. To the ALJ's conclusion that: "the Respondent's repeated use of the crying baby recording at an excessive volume meets the Board's definition of coercion in *Eliason* and thus violated Section 8(b)(4)(ii)(B)." (ALJD, 11:19-23)
9. To the ALJ's application of, and refusal to distinguish, *Carpenter's (Society Hill Towers Owners' Assn)*, 335 NLRB 814, enforced, 50 Fed. Appx. 88 (3d Cir. 2002) ("*Society Hill*"), from the facts of this case. (ALJD, 11:21-12:33; 12:27-31)
10. To the ALJ's conclusion that the Respondent's audio recording "had no purpose but to interfere with the neutral employers working at the Broad Street site." (ALJD, 11:41-42; 12:8-9)
11. To the ALJ's conclusion that: "Respondent manipulated the volume of the recording and even the direction of the speakers to avoid proper readings by the authorities." (ALJD, 12:6-7)
12. To the ALJ's conclusion that Respondent playing its audio recording was not protected by the First Amendment and to his refusal to apply the *Catholic Bishop* rule by finding that the Union violated Section 8(b)(4)(ii)(B) of the Act. (ALJD, 12:22-41)

13. To the ALJ's conclusion violating the First Amendment as applied by finding that the Union violated Section 8(b)(4)(ii)(B) of the Act. (ALJD, 12:22-41)
14. To the ALJ's finding that Respondent playing an audio recording was coercive under Section 8(b)(4)(ii)(B) of the Act. (ALJD, 11:7; 11:19-21; 14:9-12)
15. To the ALJ's finding that Eddis told Steffa that the crying baby would "leave also" if "Major Electric left the Broad Street site" and the conclusion that this shows that the alleged threat was sufficiently related to the admitted secondary objective. (ALJD, 13:16-31)
16. To the ALJ's conclusion that there "was at least an implied threat of physical harm or harm to the property of a representative of a neutral to the Respondent's dispute at the Broad Street site" and that this "amounted to coercion under subsection (ii) of Section 8(b)(4)(B) of the Act." (ALJD, 13:4-31; 14:14-16)
17. To the ALJ's credibility determinations. (ALJD, 7:6-8:24)
18. To the ALJ's Conclusions of Law numbered 1 through 3. (ALJD, 14:9-18)
19. To the imposition by the ALJ of any Order. (ALJD, 14:25-15:30)

Respectfully submitted,

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